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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,294	01/11/2001	Kouji Sakai	YAMAHS.778A	2802

20995 7590 11/19/2002

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EXAMINER

BURCH, MELODY M

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/759,294	SAKAI, KOUJI
	Examiner	Art Unit
	Melody M. Burch	3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 26 July 2002.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-22 and 32-40 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,4,5,15-19,21,22, 31,32,33,35 and 40 is/are rejected.

7) Claim(s) 2 and 14 is/are objected to.

8) Claim(s) 3,6-13,20,34 and 36-39 are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 July 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<input type="checkbox"/> Notice of References Cited (PTO-892)	<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	<input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18, 19, 31-33, 35, and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 18. The phrase "a first pressure regulator" in line 1 is indefinite. It is unclear to the Examiner whether the first pressure regulator of claim 18 is intended to be the same or different from that of claim 17.

Re: claim 31. The phrase "said at least one chamber" in line 9 is indefinite. First, it lacks proper antecedent basis since the phrase "at least one of the chambers" and not "at least one chamber" was previously claimed. Also it is unclear to the Examiner whether the "at least one chamber" is intended to be the same or different from the "at least two fluid chamber" claimed in lines 3-4 of the claim. The use of consistent terminology when referring to the chambers is recommended.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 17-19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tschanz.

Re: claim 17, 18, 21, and 22. Tschanz shows in figure 1 a suspension system comprising a first damper 1, a second damper 2, a third damper 1, and a fourth damper 2, the first damper and the second damper being joined by a first pressure regulator 16 and defining a first damper pair and the third damper and the fourth damper defining a second damper pair, the first damper pair and the second damper pair being connected together through means for regulating flow 27, the first pressure regulator and the means for regulating flow being connected in series between the first damper pair and the second damper pair via lines 15, 25, 38, and 26.

Re: claim 19. Tschanz shows in figure 1 a second pressure regulator 9 connecting the second damper pair to the means for regulating flow.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4, 5, 15, 16, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai '018.

Re: claims 1, 15, 16, and 31. (Second Interpretation) Sakai '018 shows in figure 19 (all elements are labeled by Examiner in the copy of figure 19 attached in the Office Action of paper no. 10 mailed on 4/25/02) a suspension system for a four wheeled vehicle as disclosed in line 3 of the abstract, the suspension system comprising a first damper, a second damper, a third damper, and a fourth damper, each of the dampers comprising a cylinder body and a piston arranged to reciprocate within the damper, each piston dividing an interior of each cylinder body into an upper chamber and a lower chamber, each piston also comprising a connecting passage that places the upper chamber and the lower chamber in fluid communication, the lower chamber of the first damper and the lower chamber of the second damper being interconnected with a pressure regulator, the pressure regulator comprising a first pressure regulating chamber and a second regulating chamber, a first movable wall defining at least a portion of the first pressure regulating chamber and a second movable wall defining at least a portion of the second pressure regulating chamber, the lower chamber of the first damper being connected to the first pressure regulating chamber and the lower chamber of the second damper being connected to the second pressure regulating chamber, the pressure regulator further comprising a third pressure regulating chamber, the third pressure regulating chamber being connected with the third damper and the fourth damper through at least a first conduit via the first and second pressure regulating chambers and the respective movable walls, a flow regulator containing a first flow regulating chamber and a second flow regulating chamber, the first flow regulating chamber and the first conduit in communication through a throttled passage,

but does not disclose the limitation of a passage extending between the first pressure regulating chamber and the second pressure regulating chamber of the pressure regulator.

Sakai '018 figure 19 shows a pressure regulator having a U-shaped member with the movable wall members being guided along the walls of a U-shaped pressure regulator housing. Sakai '018 figure 3 teaches a well-known alternate means of constructing a pressure regulator including the use of a U-shaped member including left-side 127,128 and right-side127 with the U-shaped member being guided within the pressure regulator via a rod 132 and rod guide member 134, the rod guide member having a passage shown in the area of element number 133, which extends between first 148 and second 155 regulating chambers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the construction of the pressure regulator of Sakai '018 figure 19 with a construction having a rod guide passage between two regulating chambers, as taught by Sakai '018 figure 3, in order to provide an alternate and effective means of guiding the movable walls during the reciprocating motion in the pressure regulating chamber.

Re: claim 4. Sakai '018 discloses in col. 5 lines 35-37 the limitation of the first damper being a front left damper and the second damper being a rear left damper.

Re: claim 5. Sakai '018 discloses in col. 5 lines 35-37 and teaches in figure 18 the limitation of the first damper being a front left damper and the second damper being a rear right damper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the suspension system of Sakai '018

figure 19 with a cross-connection feature such that the fourth damper adapts a connection relationship similar to that of the second damper, as taught by Sakai '018 figure 18, as a means of providing an arrangement that combats both rolling pitching and a combination of those forces as taught in col. 14 lines 60-61 of Sakai '018.

***Allowable Subject Matter***

7. Claims 2, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 32, 33, 35, and 40 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 17-19, 21, and 22 have been considered but are moot in view of the new ground(s) of rejection.
10. Applicant's arguments filed 7/26/02 have been fully considered but they are not persuasive. Applicant argues that neither interpretation of Sakai results in a disclosure or teaching of a flow regulator that is connected to a third pressure regulator chamber while a first damper is connected to a first pressure regulator chamber and a second damper is connected to a second pressure regulator chamber. Examiner maintains the rejections based on the second interpretation of Sakai '018 since as labeled in the copy of figure 19 attached with the Office Action of paper no. 10 Sakai shows a flow regulator that is connected to a third pressure regulator chamber, as broadly claimed, via

intervening elements such as the first and second pressure regulating chambers and movable walls while a first damper is connected to a first pressure regulator chamber and a second damper is connected to a second pressure regulator chamber. Similarly, the third and fourth dampers through at least a first conduit and the flow regulator are connected to the third pressure regulating chamber. The claim language does not preclude connections by way of intervening elements.

***Conclusion***

11. In order to complete the record, it should be noted that no conflict appears to presently exist between the subject matter defined by the instant claims and the subject matter of the claims of applicant's and/or assignee's Patent 6250658 to Sakai and co-pending applications 09/745348 and 09709969 have been made of record.

Accordingly, no double patenting rejection is entered into the instant application. See MPEP 804+ concerning double patenting type of rejections, if necessary. Applicant and/or assignee should maintain this clear line of patentable distinction between the instant claims and the claims of the indicated patent application.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

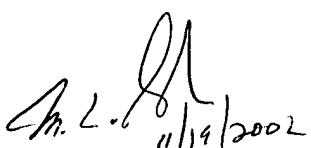
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmmb 11/15/02  
mmb  
November 15, 2002

  
Matthew C. Graham  
PRIMARY EXAMINER  
GROUP 310  
11/19/2002